IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8664 OF 2005

Central Bank of India .. ..Petitioner

Versus

ICICI Bank Ltd. .. ..Respondents

Mr.Hiralal Thakker with R.L.Shethia for petitioner

Mr.R.M.Kadam, Senior Counsel i/b Pandya Poonawala for respondents

CORAM : P.V.KAKADE, J.

DATE : 23RD JANUARY, 2006

P.C.:

1. The petitioner-bank has preferred this petition against the judgment and order passed by the lower appellate court dated 19.9.2005 dismissing their appeal and confirming the judgment and order passed by trial court dated 24.9.2994 decreeing the respondents -plaintiffs' suit for recovery of possession of the suit property under Section 41 of the P.S.C.C. Act, 1872.

2. The plaintiffs-bank filed the suit against the Central Bank of India for a decree to recover the suit premises and other reliefs. According to the plaintiffs, original Plaintiff ICICI Ltd. was Public Limited Company, registered under the Companies Act. Original plaintiff was amalgamated with ICICI Ltd. from 3.5.2002. It was submitted that the defendant is a banking company constituted under the provisions of Banking Companies (Acquisition and Transfer of Undertakings) Act. The defendants were tenant in respect of the suit premises. The defendants and plaintiffs executed agreement dated 23.11.1987. The defendants were in use and occupation of the suit premises. The plaintiffs accepted that, the defendants are the tenants of the plaintiffs in respect of the suit premises. Prior to termination of tenancy, the defendants used to pay rent at the rate of Rs.36,267.00 per month. The plaintiffs submitted that they required the suit premises. The plaintiffs demanded the possession. There was correspondence between plaintiffs and the defendants. The plaintiffs agreed to allow the defendants to use the suit premises till 31.8.2001 at enhanced rate of rent. However, agreement was not executed and the defendants did not pay enhanced rent.

The defendants did not deliver the possession of the suit premises and hence demand notice was issued vide notice dated 12.10.2001. The plaintiffs also claimed mesne profits at the market rate. It was further submitted that the provisions of Maharashtra Rent Act did not apply to the premises occupied by the defendants because the defendants is a Public Sector Undertaking, having capital more than Rs.1 crore and hence the defendants are not entitled for protection of the Maharashtra Rent Control Act. Since the tenancy of defendants was terminated by letter dated 26.12.2001 and since the defendants did not comply with the demand the suit came to be filed.

3. The defendants filed their written statement raising various contentions including validity, legality of the notice of termination.

4. The learned trial judge after hearing both the parties and on the basis of available evidence came to the maintainable the suit in its present form is maintainable and the plaintiffs had proved that the defendants' tenancy was legally terminated. In the result the suit came to be decreed.

. The appeal was carried to the lower appellate court, who after hearing both the parties concurred with the findings recorded by the trial court and dismissed the appeal. Hence the present petition.

5. At the outset, it may be noted that no fault could be found with the reasoning and findings recorded by both the courts below and therefore, it would brook no interference. It is needless to mention that the provisions of the Maharashtra Rent Control Act, 1999 are not applicable to the defendants, because it is a Public Sector Undertaking having capital more than Rs.1 crore and hence both the courts have rightly held that the protection contemplated under the Maharashtra Rent Control Act is not available to the defendants.

6. Once this position is reached, it must be seen whether the notice has validly terminated the tenancy. Both the courts below have discussed the evidence on record to that extent and have concluded that the tenancy was validly terminated. Further it was held that once the tenancy was validly terminated and the defendants were not entitled for protection of Maharashtra Rent Control Act, no defences were available to the defendants.

7. Under the circumstances, I have no doubt whatsoever that the concurrent findings recorded by both the courts below are just, legal and proper and therefore, it would brook no interference. In the result the petition stands dismissed with no order as to costs.

8. However, on request of the learned counsel for the petitioner, the petitioner is given time of one year to vacate the suit premises on condition that they shall furnish an undertaking to that effect and further they shall not ask for any further extension of time to vacate the premises. Needless to mention that they shall continue to pay compensation as agreed in the meantime. Undertaking to be furnished on or before the end of April 2006.